

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 - Miscellaneous

Section 199 - Annual report on Criminal Justice (Terrorism and Conspiracy) Act 1998

787. The Criminal Justice (Terrorism and Conspiracy) Act 1998 (“the 1998 Act”) was passed following emergency parliamentary procedure in the wake of the Omagh bombing in August 1998.
788. There were 2 main parts in the 1998 Act. Sections 1 to 4 made provision about procedure and forfeiture in relation to offences concerning proscribed organisations. Sections 5 to 7 concern conspiracy to commit offences outside the United Kingdom.
789. **Section 8** requires that a statutory report on the working of the Act be laid before both Houses of Parliament on an annual basis. Although the section is drafted in such a way so as it applies generally to the working of the Act as a whole, it is understood that the requirement was directed principally at the terrorism provisions in sections 1 to 4, which have now been repealed.
790. **Section 8** is now considered redundant. It has been repealed for England, Wales and Northern Ireland by the Criminal Justice and Immigration Act 2008. This section repeals section 8 of the 1998 Act as it applies to Scotland. The effect is that the section will be repealed UK wide.

Section 200 – Modification of references to “Act”, “enactment” etc. in certain Acts of Parliament

791. The Interpretation Act 1978 defines a number of commonly-used terms so that separate definitions do not have to be provided in each piece of legislation by the UK Parliament. As amended by the Scotland Act 1998, it provides definitions of “Act” and “enactment” which exclude Acts of the Scottish Parliament and instruments made under such Acts.
792. There are a large number of references to “Act” and “enactment” in pre-devolution criminal law and procedure statutes. For example section 307 of the Criminal Procedure (Scotland) Act 1995 defines “crime” as “any crime or offence at common law or under any Act of Parliament whenever passed”. At the time the Criminal Procedure (Scotland) Act 1995 was passed, the reference would have included all primary legislation, but now it only includes Westminster Acts and not Acts of the Scottish Parliament.
793. **Section 200** of this Act provides a solution specifically for the Criminal Procedure (Scotland) Act 1995, the Criminal Law (Consolidation) (Scotland) Act 1995 and the licensing provisions of the Civic Government (Scotland) Act 1982, the main pre-devolution statutes that are dealt with in this Act. Each reference to “Act” or

*These notes relate to the Criminal Justice and Licensing (Scotland)
Act 2010 (asp 13) which received Royal Assent on 6 August 2010*

“enactment” has been extended to apply to Scottish legislation and checked to ensure that that extension is appropriate.

794. Subsection (1) modifies the definition of “enactment” to include Acts of the Scottish Parliament and Scottish statutory instruments within the licensing provisions contained in the Civic Government (Scotland) Act 1982. Subsection (2) modifies the definition of “enactment” to include Acts of the Scottish Parliament and Scottish statutory instruments in the Criminal Law (Consolidation) (Scotland) Act 1995. Subsection (3) similarly modifies the definition of “crime”, “enactment” and “statute” within section 307(1) of the Criminal Procedure (Scotland) Act 1995 so that references to Acts of the Scottish Parliament are included within these definitions.